

AMENDED IN ASSEMBLY JULY 7, 2003

AMENDED IN SENATE MAY 5, 2003

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 677

Introduced by Senator Ortiz

February 21, 2003

An act to amend Section 49431 of, *and to add Section 49431.5 to*, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 677, as amended, Ortiz. Schools: pupil nutrition: carbonated beverages.

Existing law, ~~to become operative on January 1, 2004, contingent on funding,~~ prohibits the sale of carbonated beverages at elementary schools regardless of the time of day and *restricts the sale of certain food items on those campuses during specified times*. Existing law further prohibits the sale of carbonated beverages in middle schools from ¹/₂ hour before the start of the schoolday until after the end of the last lunch period. *Existing law makes those provisions operative on January 1, 2004, if funding is appropriated for specified nutrition purposes on or before that date.*

This bill would instead *make those restrictions on the sale of food items operative if funding is appropriated for those specified nutritional purposes regardless of the date on which the appropriation is made.*

The bill would prohibit the sale of ~~carbonated~~ certain beverages to pupils in elementary, middle, or junior high schools ~~commencing September 1, 2005, and to pupils in high schools commencing September 1, 2006~~. The bill would, in addition, provide that

~~commencing on those dates only specified beverages may be sold in middle and high schools from 1/2 hour before the start of the schoolday until 1/2 hour after the end of the schoolday. The bill would, in addition, exempt the sale of certain beverages at specified school events from those prohibitions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 California Childhood Obesity Prevention Act.
3 SEC. 2. The Legislature finds and declares as follows:
4 (a) In the past two decades obesity has doubled in children, and
5 tripled in adolescents. On average, 30 percent of California's
6 children are overweight, and in some school districts, anywhere
7 from 40 to 50 percent of California's pupils are overweight. Only
8 2 percent of California's adolescents, between the ages of 12 and
9 17 years, inclusive, have eating habits that meet national dietary
10 recommendations. Only 23 percent of pupils in grades 5, 7, and 9
11 are physically fit. Almost half of the children and adolescents
12 diagnosed with diabetes have the Type 2 form of the disease, which
13 is strongly linked to obesity and lack of exercise. One in four obese
14 children have early signs of Type 2 diabetes.
15 (b) Overweight and physical inactivity costs California an
16 estimated 24.6 billion dollars annually, approximately seven
17 hundred fifty dollars (\$750) per person—a cost that is expected to
18 rise by another 32 percent by the year 2005. Poor nutrition and
19 physical inactivity account for more preventable deaths (28
20 percent) than anything other than tobacco—more than AIDS,
21 violence, car crashes, alcohol, and drugs combined. The long-term
22 impact of childhood obesity on California's economy, and on our
23 children's increased risk of death from heart disease, cancer,
24 stroke, and diabetes will be staggering. Approximately 300,000
25 deaths in the United States per year are currently associated with
26 obesity and overweight; the total direct and indirect costs
27 attributed to overweight and obesity amounted to 117 billion
28 dollars in the year 2000. Obesity is linked to a larger increase of
29 chronic health conditions and accounts for a significantly higher

1 amount of health expenditures than those associated with
2 smoking, heavy drinking, or poverty.

3 (c) Each additional daily serving of sugar-sweetened soda
4 increases a child's risk for obesity by 60 percent. Twenty years ago,
5 boys consumed more than twice as much milk as soft drinks, and
6 girls consumed 50 percent more milk than soft drinks. By 1996,
7 both boys and girls consumed twice as many soft drinks as milk.
8 Soft drinks now comprise the leading source of added sugar in a
9 child's diet. Teenage boys consume twice the recommended
10 amount of sugar each day, almost one-half of which (44 percent)
11 comes from soft drinks. Teenage girls consume almost three times
12 the recommended amount of sugar, 40 percent of which comes
13 from soft drinks.

14 (d) A study of 9th and 10th grade girls found that those who
15 drank colas were five times more likely to develop bone fractures,
16 and girls who drank other carbonated beverages were three times
17 more likely to suffer bone fractures than nonconsumers of
18 carbonated beverages. Decreased milk consumption means that
19 children are no longer getting required amounts of calcium in their
20 diets. The average teenage girl now consumes 40 percent less
21 calcium than she needs, putting her at high risk of osteoporosis in
22 her later years.

23 SEC. 3. Section 49431 of the Education Code is amended to
24 read:

25 49431. (a) At each elementary and middle school, and in
26 those schools participating in the pilot program created pursuant
27 to Section 49433.7, the sale of all foods on school grounds shall
28 be approved for compliance with the nutrition standards in this
29 section by the person or persons responsible for implementing
30 these provisions as designated by the school district.

31 (b) (1) At each elementary school, the only food that may be
32 sold to a pupil during breakfast and lunch periods is food that is
33 sold as a full meal. This paragraph does not prohibit the sale of
34 fruit, nonfried vegetables, legumes, beverages, dairy products, or
35 grain products as individual food items if they meet the
36 requirements set forth in this subdivision.

37 (2) An individual food item sold to a pupil during morning or
38 afternoon breaks at an elementary school shall meet all of the
39 following standards:

1 (A) Not more than 35 percent of its total calories shall be from
2 fat. This subparagraph does not apply to the sale of nuts or seeds.

3 (B) Not more than 10 percent of its total calories shall be from
4 saturated fat.

5 (C) Not more than 35 percent of its total weight shall be
6 composed of sugar. This subparagraph does not apply to the sale
7 of fruits or vegetables.

8 ~~(3) Commencing September 1, 2005, regardless of the time of~~
9 ~~day, water, milk, 100 percent fruit juices, or fruit-based drinks that~~
10 ~~are composed of no less than 50 percent fruit juice and that have~~
11 ~~no added sweeteners are the only beverages that may be sold to a~~
12 ~~pupil at an elementary school.~~

13 (c) An elementary school may permit the sale of food items that
14 do not comply with subdivision (a) or (b) as part of a school
15 fundraising event in any of the following circumstances:

16 (1) The items are sold by pupils of the school and the sale of
17 those items takes place off of school premises.

18 (2) The items are sold by pupils of the school and the sale of
19 those items takes place at least one-half hour after the end of the
20 schoolday.

21 (d) Notwithstanding Article 3 (commencing with Section
22 33050) of Chapter 1 of Part 20, *compliance with this section may*
23 *not be waived pursuant to that article.*

24 ~~(e) Commencing September 1, 2005, for middle and junior~~
25 ~~high schools, and commencing September 1, 2006, for high~~
26 ~~schools, the following restrictions apply to the sale of beverages~~
27 ~~to pupils on campus:~~

28 ~~(1) From one-half hour before the start of the schoolday until~~
29 ~~one-half hour after the end of the schoolday, only the following~~
30 ~~beverages may be sold to a pupil on campus:~~

31 ~~(A) Fruit-based drinks that are composed of no less than 50~~
32 ~~percent fruit juice and that have no added sweeteners.~~

33 ~~(B) Drinking water.~~

34 ~~(C) Milk, including, but not limited to, chocolate milk, soy~~
35 ~~milk, rice milk, and other similar dairy or nondairy milk.~~

36 ~~(D) An electrolyte replacement beverage that contains no more~~
37 ~~than 42 grams of added sweetener per 20-ounce serving.~~

38 ~~(2) (A) Except as set forth in subparagraph (B), a beverage that~~
39 ~~exceeds 12 ounces per serving may not be sold to a pupil on~~

1 ~~campus from one-half hour before the start of the schoolday until~~
2 ~~one-half hour after the end of the schoolday.~~

3 ~~(B) Subparagraph (A) does not apply to any of the following:~~

4 ~~(i) Drinking water.~~

5 ~~(ii) Milk, including, but not limited to, chocolate milk, soy~~
6 ~~milk, rice milk, and other similar dairy or nondairy milk.~~

7 ~~(iii) An electrolyte replacement beverage that contains no more~~
8 ~~than 42 grams of added sweetener per 20-ounce serving.~~

9 ~~(f)–~~

10 (e) Although a middle school is required to comply with those
11 provisions of this section applicable to a middle school, it may, in
12 addition, elect to apply for participation in the pilot program
13 pursuant to Section 49433.7.

14 ~~(g)–~~

15 (f) For the purposes of this section, “added sweetener” means
16 any additive that enhances the sweetness of the beverage,
17 including, but not limited to, added sugar, but does not include the
18 natural sugar or sugars that are contained within the fruit juice
19 which is a component of the beverage.

20 ~~(h)–~~

21 (g) (1) This section, ~~excluding paragraph (3) of subdivision~~
22 ~~(b) and subdivision (e), shall become operative on January 1, 2004,~~
23 ~~only if moneys are appropriated on or before January 1, 2004, for~~
24 ~~each of the following purposes:~~

25 (A) Providing nutrition policy development grants pursuant to
26 subdivision (c) of Section 49433.

27 (B) Support and technical assistance to school districts
28 pursuant to Section 49433.5.

29 (C) Increasing meal reimbursements pursuant to Section
30 49430.5.

31 (2) The ~~State Department of Education~~ *department* shall file a
32 written statement with the Secretary of the Senate and the Chief
33 Clerk of the Assembly ~~prior to January 5, 2004, stating whether~~
34 ~~when~~ funds have been appropriated to meet the conditions of
35 paragraph (1) ~~and subdivision (e) of Section 49430.5.~~ The
36 statement shall state the annual Budget Act or other measure in
37 which each appropriation was made.

38 *SEC. 4. Section 49431.5 is added to the Education Code, to*
39 *read:*

1 49431.5. (a) Commencing January 1, 2004, regardless of the
2 time of day, beverages, other than water, milk, 100 percent fruit
3 juices, or fruit-based drinks that are composed of no less than 50
4 percent fruit juice and have no added sweeteners, may not be sold
5 to a pupil at an elementary, middle, or junior high school.

6 (b) An elementary school may permit the sale of beverages that
7 do not comply with subdivision (a) as part of a school fundraising
8 event in any of the following circumstances:

9 (1) The items are sold by pupils of the school and the sale of
10 those items takes place off the premises of the school.

11 (2) The items are sold by pupils of the school and the sale of
12 those items takes place one-half hour or more after the end of the
13 schoolday.

14 (c) A middle or junior high school may permit the sale of
15 beverages that do not comply with subdivision (a) as part of a
16 school event if the sale of those items meets all of the following
17 criteria:

18 (1) The sale occurs during an interscholastic athletic event and
19 takes place at the location of that event.

20 (2) The sale is after the end of the last lunch period.

21 (3) Vending machines, pupil stores, and cafeterias are not used
22 for the sale prior to one-half hour after the end of the schoolday.

23 (d) For the purposes of this section, "added sweetener" means
24 any additive that enhances the sweetness of the beverage,
25 including, but not limited to, added sugar, but does not include the
26 natural sugar or sugars that are contained within the fruit juice
27 which is a component of the beverage.

28 (e) Notwithstanding Article 3 (commencing with Section
29 33050) of Chapter 1 of Part 20, compliance with this section may
30 not be waived.